

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6695

BILL NUMBER: SB 307

NOTE PREPARED: Jan 21, 2015

BILL AMENDED: Jan 20, 2015

SUBJECT: Consumer Protection.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill amends the Senior Consumer Protection Act (Act) as follows: (1) Expands the class of consumers covered by the act to include: (A) veterans; and (B) individuals with physical disabilities, developmental disabilities, or mental impairments; in addition to senior consumers.
(2) Changes the term "senior consumer" to "protected consumer" to encompass the additional consumers covered.

The bill amends the statute concerning telephone solicitations of consumers (Indiana's "Do Not Call" Law) to provide that a person may not provide substantial assistance or support to a telephone solicitor, a supplier, or a caller if the person knows or consciously avoids knowing that the telephone solicitor, supplier, or caller has violated the "Do Not Call" Law or the statute concerning the regulation of automatic dialing machines.

The bill amends the statute concerning home improvement contracts to specify that:

- (1) an exterior home improvement includes lawn care, landscaping, snow removal, driveway sealing, tree trimming, and pest control services; and
- (2) a home improvement includes interior pest control services.

The bill amends the statute concerning the regulation of automatic dialing machines to provide that the Attorney General is not required to prove that a violation of the statute was knowing or intentional for a court to impose a civil penalty for the violation.

The bill amends the statute concerning the investigation and prosecution of complaints concerning regulated occupations to add to the permissible reasons for disclosure of information concerning a complaint a disclosure that is made to a law enforcement agency that has or is reasonably believed to have jurisdiction

over a person or matter involved in the complaint.

The bill also amends the law concerning the payment of funeral or burial service expenses in advance of need to provide that "contract", for purposes of the law, includes an agreement for the issuance of a life insurance policy where:

- (1) the death benefit of the policy is or may be designated for use in the purchase of funeral or burial services or merchandise; and
- (2) the policy is intended to be an exempt resource for Medicaid qualification purposes.

The bill also provides that the issuer of a contract meeting this description is a "seller" for purposes of the law and that a contract meeting this description must satisfy certain statutory requirements.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Office of Attorney General (AG):* This bill may result in additional actions brought by the AG due to the expansion of the class of consumers covered by the act. An employee of the AG may further a disclosure of information concerning a complaint to a law enforcement agency that has jurisdiction over a person or matter involved in the complaint. The bill's requirements should be able to be implemented by the AG with no additional appropriations.

Explanation of State Revenues: (Revised) The bill expands the class of protected consumers covered by the act. The Attorney General is not required to prove that a violation of this bill's provisions was committed knowingly for the court to order the payment of a civil penalty. As a result, there may be more civil actions regarding alleged financial exploitations of a protected consumer. Actual increases in court fee revenue due to those cases are indeterminable. The Attorney General is not required to pay a civil filing fee. However, if the Attorney General prevails in a lawsuit, the defendant in the case is required to pay all court fees.

Court Fee Revenue: Revenue to the state General Fund may increase as a result of any additional civil actions and accompanying court fees. When a civil case is filed, a civil costs fee of \$100 would be assessed, 70% (55%) of which would be deposited in the state General Fund if the case is filed in a court of record (if the case is filed in a city or town court).

Additionally, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5) and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use in assistance with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If any additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge. Persons filing a civil case are also required to pay document storage

fees (\$2), document fees (\$1 per document) and service fees (\$10) that are deposited in local funds.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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